

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RICKY HICKS,	§
	§ No. 567, 2008
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Sussex County
STATE OF DELAWARE,	§ Cr. ID No. 0410023146A
	§
Plaintiff Below-	§
Appellee.	§

Submitted: December 19, 2008

Decided: January 23, 2009

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

ORDER

This 23rd day of January 2009, it appears to the Court that:

(1) On November 17, 2008, the Court received the appellant's notice of appeal from the Superior Court's order, dated and docketed on January 7, 2008, which denied his motion for postconviction relief pursuant to Superior Court Criminal Rule 61. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before February 6, 2008.

(2) On November 17, 2008, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why the appeal should not be dismissed as untimely filed. The appellant filed his

response on December 8, 2008. In the response, he states that he is innocent of the charges against him and that his paid attorney failed to file a notice of appeal, despite his repeated requests.¹

(3) Pursuant to Rule 6(a) (iii), a notice of appeal in any proceeding for postconviction relief must be filed within 30 days after entry upon the docket of the judgment or order being appealed. Moreover, time is a jurisdictional requirement.² A notice of appeal must be received by the Office of the Clerk of this Court within the applicable time period in order to be effective.³ An appellant's pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of Rule 6.⁴ Unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.⁵

(4) There is nothing in the record before us that reflects that the appellant's failure to file a timely notice of appeal in this case is attributable to court-related personnel. Consequently, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal. Thus, the Court concludes that this appeal must be dismissed.

¹ Despite Hicks' representations to the contrary, the Superior Court docket does not reflect that Hicks was represented by private counsel in the postconviction proceedings.

² *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

³ Supr. Ct. R. 10(a).

⁴ *Carr v. State*, 554 A.2d at 779.

⁵ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that this appeal is DISMISSED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice